

## **REMARKS**

The current application includes claims 50, 54-58 and 67-81 with claims 50, 76 and 81 being independent claims. Claims 1-49, 51-53 and 59-66 have been previously cancelled. Claims 50, 54, 56, 58, 69, and 72 are amended herein. New claims 74-81 have been added.

In the Final Office Action dated January 11, 2008, claims 50, 54, 56-58 and 67-73 were rejected under 35 U.S.C. Section 102(b) as being anticipated by U.S. Statutory Invention Registration H1745 to Paraschac (hereinafter referred to as "Paraschac"). Dependent claim 55 was rejected as unpatentable over Paraschac. In response, independent claim 50 has been amended to further clarify the claimed subject matter. It is respectfully submitted that amended independent claim 50 and its respective dependent claims are allowable.

Independent claim 50 is generally directed to a cardiac tissue ablation apparatus. The apparatus comprises first and second jaw assemblies which are relatively movable between open and closed positions, respectively, to receive and compress cardiac tissue therebetween. Each jaw assembly has an elongated electrically conductive member for ablating tissue between the jaw assemblies. The conductive members of the jaw assemblies are in face-to-face relation and connectible to a bipolar energy power source so as to be of opposite polarity when so connected for providing an electrical current through a selected tissue ablation area that is located between the jaw assemblies.

As further recited in claim 50, each jaw assembly includes at least one interior jaw support member and includes an insulative cover that surrounds the internal jaw

support member. The internal jaw support member is insulated relative to the conductive member of the respective jaw assembly.

By way of example, the application shows and describes an ablation apparatus at Figures 28- 32, which includes an internal jaw support member (e.g., stainless steel structural support 82). Such internal jaw support member has an insulative cover that surrounds the support member 82. Unlike the cited prior art, the jaw support member also is insulated relative to the respective electrodes 94, 96. See Paragraphs 108 and 113-114; See Figures 32 and 35-40.

#### **Paraschac Does Not Teach or Suggest The Claimed Invention**

The Examiner relies upon the structure disclosed in Figure 5 of Paraschac to reject independent claim 50. However, it is respectfully submitted that such structure does not teach or suggest the claimed invention, as amended in claim 50. In particular, Paraschac does not teach or suggest the claimed structure of the jaw assembly, inter alia, wherein each jaw assembly includes at least one internal jaw support member and includes an insulative cover that surrounds the internal jaw support member and wherein the internal jaw support member is insulated relative to the conductive member of the respective jaw assembly. (Emphasis added).

The electrodes in Figure 5 of Paraschac are relied upon for the claimed internal jaw support member. However, such electrodes 147, 148 do not disclose or suggest an internal jaw support member that is insulated relative to the electrode. There is also no other structure in Figure 5 of Paraschac that provides an internal jaw support member that is insulated relative to such electrode. Indeed, each wide, U-shaped electrode 147, 148 in Paraschac forms the entire internal support structure for each jaw such that

Paraschac lacks the claimed internal jaw support member having the features recited in claim 50. It is thus respectfully believed that the claims should be allowable.

**Independent Claims 76 and 81 Should Also Be Allowable**

In addition to the above, independent claims 76 and 81 are respectfully believed to be allowable for independent reasons. Claim 76 recites, inter alia, that each jaw assembly includes "an insulative cover that sufficiently surrounds the internal jaw support member to prevent contact of such internal jaw support member with the selected ablation area." (Emphasis added). This feature is not found in Paraschac.

In Paraschac, each jaw member is exposed along the entire clamping surface 27, 36, 118, 119 of each electrode 21, 22, 147, 148 to contact a selected tissue region. The side portions of Paraschac's electrodes are also exposed to form outer electrodes 29, 39, 170, 172. Contrary to claim 76, Paraschac's insulators 26, 28, 134, 146, 156, 164 do not prevent contact of such electrodes with the selected tissue region.

Paraschac, in fact, teaches away from such a result. --e.g., at column 4, lines 28-33:

Since insulators 26 and 28 do not cover the entire outer surface 32 and 34 of conductor 21 and 22 respectively, leaving outer electrodes 29 and 39, a small portion of the current will flow outside the region between grasping surfaces 27 and 36, coagulating tissue outside that region and providing visual confirmation of coagulation. (Emphasis added).

Indeed, any insulative cover that sufficiently surrounds Paraschac's electrodes to prevent contact of such electrodes with the selected coagulation region would be contrary to the intended purpose of Paraschac – namely, to provide a cutting current to tissue disposed between the jaws. Paraschac's jaw members 21, 22, 147, 148 are the electrodes themselves and require direct and intimate contact with the tissue disposed between the jaws to conduct electrical energy through such tissue – indeed,

Paraschac's electrodes also conduct current through other tissue by providing a visible coagulation region in tissue disposed outside the jaws. (Column 4, lines 26-33).

To surround Paraschac's electrodes with an insulative cover as so claimed in claim 76 would inhibit the operation of Paraschac's device and prevent Paraschac from achieving its objective, namely, to provide a wide treatment zone that essentially spans the entire width of (and outside of) the jaws. Thus, any such modification would be counterintuitive to Paraschac's purpose to provide an electrosurgical cutting tool.

Turning to claim 81, claim 81 includes, inter alia, that the insulative cover "completely surrounds the internal jaw support member." (Emphasis added).

In Paraschac, each jaw member is only partially surrounded by a cover in each of the disclosed embodiments. Paraschac's insulators 26, 28, 146, 156 do not extend around the entire perimeter of their respective jaw members 21, 22, 147, 148. See Figures 3 and 5. Any insulative cover for Paraschac's entire jaw perimeter would be contrary to the intended purpose of Paraschac because Paraschac's electrodes would fail to contact the selected tissue region for delivering a coagulation current.

Accordingly, it is respectfully submitted that claims 75-81 are also allowable.

### **Conclusion**

For all the above reasons, reconsideration and allowance of the claims are respectfully requested.

Respectfully submitted,

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